

Testimony of Amanda Campbell

Rural Access and the potential closure of the Hot Springs VA, Hot Springs SD

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Upon the December 2011 announcement from the Black Hills VA management that the Hot Springs facility (Battle Mountain Sanitarium or BMS) would close, concerned individuals and groups began to question the VA about their lack of compliance with the National Historic Preservation Act (NHPA). Despite having a comprehensive and well written handbook (*VA Directive 7545*) and procedural manual for conducting Cultural Resources Management, the Black Hills VA management acted as if compliance with the NHPA and the National Environmental Policy Act was unfamiliar and optional. Prior to this announcement and in an attempt to comply with historic preservation standards, VA Central Office, conducted an assessment to determine which of their facilities across the country were historically significant. It was determined that BMS was amongst the highest ranking historic structures and was the only historic hospital remaining still serving as a medical center. National Trust for Historic Preservation nominated the BMS as a National Historic Landmark (*Meeting Notes 1/20/2012*). As a response to this line of inquiry, the Black Hills VA hosted a Section 106 meeting kick off meeting in June of 2012. This meeting coincided with the announcement that the Battle Mountain Sanitarium was designated a National Historic Landmark. In attendance were:

- various VSOs
- representatives from the Black Hills VA staff, VISN VA Staff, and Washington Office VA Staff
- Field Officer of the National Trust for Historic Preservation
- SD State Historic Preservation Officer and various staff
- Program Analyst from the National Advisory Council on Historic Preservation
- City and county officials
- Save the VA Historic Preservation Committee members

This daylong meeting was professionally facilitated by Claudia Nissley. The VA opened with a presentation citing the lack of patients and the compromised structural integrity of the facility as the reason for closure. In that meeting, Black Hills VA representative Dr. Andrea Conti was asked the following questions and provided the corresponding responses:

- What type of facility and what structural features are necessary to meet the medical needs of veterans?
 - Answer: Dr. Conti could not answer this, but did make reference to written standards.
- In what ways is the Hot Springs facility deficient and compromising health care?
 - Answer: Dr. Conti suggested ADA compliance is an issue and the facility is outdated.
- What types of facilities does the VA have planned elsewhere or at Hot Springs to provide care to veterans?
 - Answer: Dr. Conti was unable to provide an answer to this question.

State Historic Preservation Officer Jay Vogt made it clear that there are state experts willing and tasked with the responsibility to help consult, plan, design, and update the existing Hot Springs facility into a state of the art facility geared towards veteran care. Vogt commented that this is one of the purposes of the Section 106 process. Jenny Buddenborg of the National Trust for Historic Preservation also reiterated their role as a consulting party and reminded the attendees that BMS is exceptionally significant since it is still being used for its original intended purpose.

National Advisory Council Liaison Brian Lusher asked the VA representatives if they intended to complete the Section 106 process. The response from VA representatives was that they “hadn’t made that determination yet.” Lusher encouraged that representative to seek legal counsel for the agency.

This meeting reinforced several key points that summarize the VA’s behavior regarding BMS.

- The VA is in violation of Section 106 and Section 110 of the National Historic Preservation Act
- The VA did not successfully initiate the NEPA process in time.
- VA staff is inadequately trained, ill prepared and misinformed regarding laws, orders, and regulations directly related to the successful operation of a federal agency.
- Aside from decommissioning the Hot Springs Facility, the VA either does not have a plan for quality care in the Black Hills, or chooses to remain opaque about this plan.
- The VA had not conducted a feasibility study to determine what the cost of renovating would be.
- The VA had not conducted a structural assessment to determine the condition of the structure.

Subsequently, little has been done regarding compliance with the NHPA since that meeting over two years ago. The Black Hills VA did have an employee assigned with the collateral duties of Cultural Resources Program manager, responsible for Section 106 and NEPA advisory. This employee had successfully conducted their responsibilities for several years and enjoyed a consistent and productive relationship with the State Historic Preservation Office (SHPO) and other consulting parties. Upon advising their direct line supervisors of the need to complete Section 106 and NEPA regarding the closure, this employee’s work load as a Cultural Resource Program manager was significantly reduced. He was told that other individuals would be handling that work load.

In 2013, and after significant questioning from staff, the community, and congressionals, The Black Hills VA inquired into conducting the NEPA process and the Section 106 compliance work simultaneously. Several individuals and groups responded, including the National Trust for Historic Preservation, the National Park Service, the State Historic Preservation Office, and the National Advisory Council. None of these consulting parties responded favorably. The concept of combining the two independent assessments is costly and time consuming. Furthermore, there has not been a federal case of this complexity that has successfully completed a combined process.

Since the initiation of the Section 106 process in June of 2012, there has been no movement. In March of 2014, it was revealed that the NHPA and NEPA processes would be combined and subcontracted from

LaBatt to SWCA during the NEPA process. Recently, the SD SHPO office reiterated the following (*Spencer Email 8/12/14*):

- *“SD State Historic Preservation Office does not feel the Black Hills Regional VA Medical Center [management] is being fully transparent and open about the EIS process as regards the potential Hot Springs VA closure. We have expressed our disappointment that the VA has made the decision to combine NEPA with the NHPA process, despite the fact they have no previous record of successfully combining these important processes in an effective manner. We believe this decision was made primarily for expediency.*
- *We strongly disagree with statements from the VA that the Battle Mountain Sanitarium is no longer an economically viable structure to host inpatient or outpatient services, as this structure is sound, ADA compliant, and could continue to serve for decades to come as a medical treatment facility with minimal cost investment. This facility is one of only three non-archeological National Historic Landmarks in our state, with a rich and proud tradition of serving as a place of healing and recuperation of our veterans. It therefore deserves to have an open, honest, and thorough evaluation of the structure’s ability to continue to serve as a medical treatment facility after specific rehabilitation measures are taken.*
- *Mr. DiStasio has stated previously that his office is a “customer”, and will await the report of their contractor on the results of the EIS. SD SHPO feels this is a gross misunderstanding of the VA’s responsibility and oversight role within the EIS process.*
- *SD SHPO expects periodic status updates and progress reports (as one of the primary consulting parties) on all activities undertaken during the EIS process, to include public scoping meetings, but to date has not received any formal communications from the VA on the status of the process.”*

Executive Orders

By moving forward with the plan to decommission the BMS, the VA will be violating several Executive Orders:

Executive Order No. 13006: Locating Federal Facilities on Historic Properties in Our Nation's Central Cities

Section 1 of this Executive Order references Executive Order N. 12072 to strengthen cities by encouraging the location of Federal facilities in our central cities. It promotes the NHPA and the Public Buildings Cooperative Use Act of 1976 to acquire and utilize space in suitable buildings of historic, architectural, or cultural significance.

Section 2 of this order suggests when locating Federal facilities, Federal agencies shall give first consideration to historic properties within historic districts.

Section 3 of this order encourages removing regulatory barriers and encourages the agency to seek the assistance of the Advisory Council on Historic Preservation when taking these steps.

Section 4 promotes *"Preservation Partnerships. In carrying out the authorities of the National Historic Preservation Act, the Secretary of the Interior, the Advisory Council on Historic Preservation, and each Federal agency shall seek appropriate partnerships with States, local governments, Indian tribes, and appropriate private organizations with the goal of enhancing participation of these parties in the National Historic Preservation Program. Such partnerships should embody the principles of administrative flexibility, reduced paperwork, and increased service to the public."*

In review of this Executive Order, we are reminded that not only is the BMS a National Historic Landmark, but it is also the cornerstone of the Hot Springs Historic District. A-2 of the VA Directive 7545 highlights this executive order.

Executive Order No. 11593

This executive order requires federal agencies conduct adequate surveys to locate "any" and "all" sites of historic value. Also, this order directed agencies to reconsider any plans to transfer, sell, demolish, or substantially alter any property determined to be eligible for the National Register and to afford the National Advisory Council on Historic Preservation an opportunity to comment on any such proposal. Lastly, this Executive Order requires agencies to record any listed property that may be substantially altered or demolished as a result of Federal action or assistance and to take necessary measures to provide for maintenance of and future planning for historic properties.

In review of this executive order, it is noted that the Black Hills VA has not conducted the adequate studies to locate and assess any sites of historic value. Secondly, the Black Hills VA has not reconsidered its plans to decommission BMS, and they have been negligent in consulting with the Advisory Council. Lastly, in the December 12, 2011 meeting where VA Management announced the proposed closure of the HS VA, VISN 23 Director Jan Murphy completely shirked the VA's stewardship role and stated that"

it would be up to the City” to repurpose the BMS facility. Despite moving forward with their plan to decommission, VA management has not taken any measures to consider let alone provide maintenance and future planning for BMS. VA Directive 7545 (Appendix 2) also highlights this executive order.

Executive Order No. 13007: Indian Sacred Sites

This Executive Order provides protection to Native American religious practices and directs Federal agencies to accommodate Native Americans' use of sacred sites for religious purposes and to avoid adversely affecting the physical integrity of sacred sites.

The Battle Mountain landscape has been declared a sacred site on account of the hundreds of years of healing that occurred there prior to the construction of the BMS. BMS itself has been declared and blessed a sacred site on three separate occasions. The first was at the opening of the sweat lodge as a healing place for Native American veterans. The second was during remodeling, and the third was on February 25, 2015, upon the announcement of the Resolution of the local tribes to keep the BMS open. Should the BMS close, it is possible that Native Americans will lose access to these sacred sites. This Executive Order is also outlined in VA Directives 7545, Appendix 2. Should the VA decommission the BMS, it would be a violation of Executive Order 13007.

Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations

This Executive Order suggests that Federal actions may have an adverse effect socially, culturally, and environmentally on minority populations and on low income populations. This order requires federal agencies to consider these impacts and minimize them.

Should the Hot Springs VA close, a significant population of Native American veterans would lose access to health care. Decommissioning BMS would result in a violation of EO12898.

Historic Preservation Measures

In 2012, the VA's own staff proposed an Innovations project that addressed three issues: the care of older VA facilities, housing and training for homeless veterans, and training for veterans enrolled in substance abuse, PTSD, and other treatment programs.

Review of the proposal was met with great success. The VA promoted the proposal for multiple reviews. In April, June, and September of 2012, and into March, May and June of 2013, it appeared that this was a proposal that was highly supported and moving forward with enthusiasm. In late July, the Office of Construction and Facilities Management (CFM) notified Hot Springs facility that despite the previous enthusiasm and planning, the Innovation project would not be moving forward at Hot Springs. The letter cited the current political climate at Hot Springs as the reason for reconsideration. It was also noted that the program would significantly help veterans and that they'd like to pilot the program at the Walla Walla, Washington facility.

Citing the "*political climate*" as a reason for reconsideration is obviously an insulting and frustrating blow to the veterans, employees, and communities in the Hot Springs catchment area. This continued neglect is promoting an adverse and negative impact on the very people the VA is responsible for. Furthermore, while we hope to see the program successful, the Hot Springs facility is a National Historic Landmark, a National Treasure, and listed on the National Register. The Walla Walla facility is only considered potentially eligible. The program was created and designed around the expansive opportunities at the Hot Springs facility, and by Hot Springs VA employees. Given the VA's required commitment to meeting National Historic Preservation Standards for managing a National Historic Landmark, it would have made the most sense to invest CFM dollars appropriately into the facility at Hot Springs. The added benefit of providing training and housing for homeless veterans, and veterans seeking treatment, is immeasurable.

The Congressional Delegation for South Dakota submitted a letter to the Black Hills VA management requesting a response regarding this reconsideration. Black Hills VA Management never responded to the inquiry.

In 2011, the Black Hills Health Care System cited a variety of reasons for decommissioning BMS. Many of these reasons dealt directly with the facility.

- Quality care cannot be offered in the historic layout of the Hot Springs Facility
- BMS is not ADA compliant
- The facility is in poor physical condition
- Rehabilitating an old facility to meet historic preservation standards is too costly

I'd like to address these comments individually:

"Quality care cannot be offered in the historic layout of the Hot Springs Facility".

While the recent Mental Health Facility construction guidelines are different than the historic lay out at BMS, that has not prohibited patients from receiving quality care (<http://www.cfm.va.gov/til/dGuide.asp>). Furthermore, some may attest that the legacy of healing in the BMS facility promotes healing, more so than in a new and sterile environment. Additionally, the BMS facility has excelled at all inspections, including IG, JCH, and CAP. In 2012, BMS was awarded a three year accreditation from CARF. The Substance abuse, PTSD, and CWT programs were recognized as superior. Despite this varying opinion of layout, the BMS continues to heal and heal well on a daily basis.

"The Hot Springs facility is not ADA compliant."

The facility that has housed the RRTP has been ADA compliant since the 1970s. Black Hills VA management is contending the entire facility must be ADA compliant. It is believed that this is being used as a measure to insist on new construction versus rehabilitation the existing structure. The ADA regulations and historic preservation regulations suggest that only areas where patients receive care or reside need to be ADA compliant. This is certainly the case already at BMS.

"The Hot Springs facility is in poor physical condition."

Until August of 2012, VA management made these statements without actually conducting a structural assessment. Furthermore, Jones Lang and LaSalle (a real estate firm on a national VA IDIQ contract), had made several suggestions regarding Enhanced Use Leases or Repurposing of the BMS facility. JLL made these determinations without ever setting foot on the landscape in Hot Springs. The information used to create these suggestions were based on poor data and information JLL received from VA Management. At the midst of pressure from the National Trust for Historic Preservation and the Save the VA committee, JLL subcontracted Treanor Architects to conduct a one day onsite conditions assessment of the BMS facility. Unfortunately, JLL was under a contractual deadline with the VA and wasn't able to provide Treanor Architects enough time to complete a full assessment of the campus. Despite the time limitations, Treanor produced a quality assessment, the first of its kind, reviewing buildings 1-12 (Treanor, 2012). Treanor Architects was chosen based on their past experience with VA facilities, historic structures, and masonry structures.

The results of the Treanor report revealed that Buildings 1-12 are in much better shape than many of the VA's 20 and 30 year old facilities. Furthermore, NONE of the buildings were in poor condition, as indicated by VA management. In fact, the Hospital itself, was rated in excellent condition.

Building	Interior Condition	Exterior Condition
1 Administration	Very Good	Very Good
2 Dom, Kitchen, EMS	Good	Very Good
3 Dom, AMMS, Fiscal	Good	Very Good
4 Dom, Vacant	Good	Very Good
5 Dom, Canteen	Good	Very Good
6 Dom, Warehouse	Good	Very Good
7 Dom, Arts and Crafts	Good	Very Good
8 Dom Quarters, Recreation	Good	Very Good
9 Protestant Chapel	Fair to Good	Very Good
10 Catholic Chapel	Fair to Good	Very Good
11 Auditorium	Good	Very Good
12 Hospital	Excellent	Very Good

“Rehabilitating an old facility to meet historic preservation standards is too costly.”

The concept that rehabilitation expenses are more costly than new construction is not an uncommon misnomer. In many situations, when a structure's integrity is compromised by the elements, it can be costly to rehabilitate. However, in the case of the BMS, this facility is in superior shape already. Treanor Architects also commented on this by stating that the materials are “typical materials with which experienced contractors are well versed, and no historic preservation premium should be anticipated.”(Treanor, 2012).

A Department of Defense study in February of 2013 confirmed that the rehabilitation of masonry buildings constructed prior to WWII are more cost effective than new construction or rehabilitation of new structures (DOD, 2013).

Summary

In summary, it is obvious that the Black Hills VA has moved forward with their plan to close the Hot Springs VA. This action has been done in violation of several laws and regulations, and with a general ambivalence to a history much greater than the current problems faced by the VA. The research and data collection necessary to support such an action has not been completed. The actions currently being implemented through the EIS process is simply an exercise in box checking and is pre-decisional in an attempt to expedite the path to closure. Should this closure occur, this blatant negligence will not only cost the VA huge amounts of money in new construction and maintenance of an abandoned

National Historic Landmark, but it will also compromise the care of thousands of veterans in the catchment area as well as veterans that travel great distances to seek RTTP and Dom care at the Hot Springs VA.